

State of Utah  
Administrative Rule Analysis

## NOTICE OF PROPOSED RULE

The agency identified below in box 1 provides notice of proposed rule change pursuant to *Utah Code* Sections 63-46a-4. Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
Utah Admin. Code ref. (R no.):	R156-73	Time filed:	
Changed to Admin. Code Ref. (R no.):			

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	<b>Contact person(s):</b>			
	<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>	<b>E-mail:</b>
	Daniel T. Jones	801-530-6767	801-530-6511	dantjones@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2.	<b>Title of rule or section (catchline):</b>
	Chiropractic Physician Practice Act Rules
3.	<b>Type of notice:</b>
	New ____; Amendment XX; Repeal ____; Repeal and Reenact ____
4.	<b>Purpose of the rule or reason for the change:</b>
	As a result of SB 249 passed during the 2004 legislative session, amendments are being proposed to update definitions, clarify continuing education requirements and update requirements for chiropractic physicians who provide acupuncture services as part of their practice.
5.	<b>This change is a response to comments from the Administrative Rules Review Committee.</b>
	Yes ____; No XX
6.	<b>Summary of the rule change:</b>

	<p>Section 102-Definitions: Added definitions for the following: "Distance learning", "FCLB" (Federation of Chiropractic Licensing Boards), "NBCE" (National Board of Chiropractic Examiners); "PACE" (Providers of Approved Continuing Education sponsored by the Federation of Chiropractic Licensing Boards) and renumbered the remaining paragraphs. Section 103-Authority-Purpose: Updated a statute citation reference. Section 303b-Continuing Education-Standards: Added Providers of Continuing Education (PACE) of the Federation of Chiropractic Licensing Boards as an additional organization that may approve chiropractic continuing education programs. Added that no more than 10 hours of continuing education in each two year period may be completed by distance learning and added that as part of the 40 continuing education hours required every two years, a chiropractic physician who provides acupuncture services as a part of their practice shall complete 10 hours of acupuncture-related continuing education . Section 601-Scope of Practice: Amendments are being proposed to clarify what competency, training and examinations are required for chiropractic physicians to practice clinical acupuncture.</p>
7.	<p><b>Aggregate anticipated cost or savings to:</b></p> <p><b>A) State budget:</b></p> <p>The Division will incur costs of approximately \$100 to reprint the rule once these proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.</p> <p><b>B) Local government:</b></p> <p>Proposed amendments do not apply to local governments. Therefore, no costs or savings are anticipated.</p> <p><b>C) Other persons:</b></p> <p>Proposed amendments will only apply to licensed chiropractic physicians and or applicants for licensure as a chiropractic physician. The proposed amendment allowing no more than 10 continuing education hours in distance learning may result in a potential savings to licensed chiropractic physicians. Usually distance learning continuing education programs are more expensive than in-person programs and if a chiropractic physician is only allowed 10 hours out of the total 40 hours required, the remaining 30 hours must be obtained through continuing education programs that may cost less money. The Division is unable to determine any exact savings amount since the cost of continuing education programs is so varied. Licensed chiropractic physicians who begin providing clinical acupuncture services as a part of their practice on or after January 1, 2005 will be required to meet the requirements to take and receive a passing score on one of two acupuncture examinations. The cost of either examination is \$300 in addition to costs to obtain the required training, which costs are unknown to the Division. The Division is unable to determine how many chiropractic physicians will begin providing clinical acupuncture services after January 1, 2005.</p>
8.	<p><b>Compliance costs for affected persons</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization or any character other than an agency):</p> <p>Proposed amendments will only apply to licensed chiropractic physicians and or applicants for licensure as a chiropractic physician. Licensed chiropractic physicians who begin providing clinical acupuncture services as a part of their practice on or after January 1, 2005 will be required to meet the requirements to take and receive a passing score on one of two acupuncture examinations. The cost of either examination is \$300 in addition to costs to obtain the required training, which costs are unknown to the Division. The Division is unable to determine how many chiropractic physicians will begin providing clinical acupuncture services after January 1, 2005.</p>
9.	<p><b>Comments by the department head on the fiscal impact the rule may have on businesses:</b></p>

	<p>This rule change requires a chiropractic physician to obtain continuing education in acupuncture, 10 credit hours for each two-year period, in order to practice acupuncture. The rule also adds an examination requirement in acupuncture for chiropractic physicians who begin providing acupuncture services on or after January 1, 2005. There are currently 712 chiropractic physician licensees; approximately 30% already practice acupuncture. The cost of each credit of continuing education is approximately \$20; the cost of each examination is approximately \$300. Thus, the rule change will impact 30% of the current chiropractic physicians as to the continuing education requirement. It is difficult to determine how many of the remaining 70% will begin practicing acupuncture after January 1, 2005 and will incur the cost of the examinations. The rule filing also contains some technical changes, including definitions, which do not create any fiscal impact to businesses. Klarice A. Bachman, Executive Director</p>														
10.	<p><b>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</b>  <b>State code or constitution citations (required):</b></p> <p>Section 58-73-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)</p>														
11.	<p><b>This rule adds, updates, or otherwise changes the following titles of materials incorporated by references</b> (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank):</p> <p></p>														
12.	<p><b>The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the <i>Utah State Bulletin</i>. See Section 63-46a-5 and Rule R15-1 for more information.)</p> <p><b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b> 10/15/2004</p> <p><b>B) A public hearing (optional) will be held:</b></p> <table border="1"> <thead> <tr> <th>on (mm/dd/yyyy):</th><th>at (time):</th><th>At (place):</th></tr> </thead> <tbody> <tr> <td>10/14/2004</td><td>9:00 am</td><td>160 East 300 South - Conference Room 4A - Salt Lake City, Utah</td></tr> <tr> <td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td></tr> </tbody> </table>			on (mm/dd/yyyy):	at (time):	At (place):	10/14/2004	9:00 am	160 East 300 South - Conference Room 4A - Salt Lake City, Utah						
on (mm/dd/yyyy):	at (time):	At (place):													
10/14/2004	9:00 am	160 East 300 South - Conference Room 4A - Salt Lake City, Utah													
13.	<p><b>This rule change may become effective on (mm/dd/yyyy):</b> 10/16/2004</p> <p>NOTE: The date above is the date on which this rule MAY become effective. It is <i>NOT</i> the effective date. After the date designated in Box 12(A) above, the agency <i>must</i> submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.</p>														
14.	<p><b>Indexing information -- keywords</b> (maximum of four, in lower case, except for acronyms (e.g., "NASA") or proper nouns (e.g., "Medicaid")):</p> <table border="1"> <tbody> <tr> <td>chiropractors</td><td>licensing</td></tr> <tr> <td>chiropractic physician</td><td></td></tr> </tbody> </table>			chiropractors	licensing	chiropractic physician									
chiropractors	licensing														
chiropractic physician															
15.	<p><b>Attach an RTF document containing the text of this rule change</b> (filename): R156-73.pro</p>														
<p><b>To the agency:</b> Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i>, and delaying the first possible effective date.</p>															
<p><b>AGENCY AUTHORIZATION</b></p>															

Agency head or designee, and title:	J. Craig Jackson, Director	Date (mm/dd/yyyy):	08/12/2004
--	----------------------------	--------------------	------------

ProposedRule.doc 9/26/2003

## **R156. Commerce, Occupational and Professional Licensing.**

### **R156-73. Chiropractic Physician Practice Act Rules.**

#### **R156-73-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 73, as used in Title 58, Chapters 1 and 73, or these rules:

(1) "Clinical acupuncture" means the application of mechanical, thermal, manual, and/or electrical stimulation of acupuncture points and meridians, including the insertion of needles, by a chiropractic physician that has demonstrated competency and training by completing a recognized course that is sponsored by an institution or organization approved to sponsor continuing education, as defined in Section R156-73-303b.

(2) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, including internet, audio/visual recordings, mail or other correspondence.

(3) "FCLB" means the Federation of Chiropractic Licensing Boards.

([2]4) "Indirect supervision" means the supervising licensed chiropractic physician shall be available for immediate voice contact by telephone, radio, or other means and shall provide daily face to face consultation and review of cases at the chiropractic facility for the chiropractic intern, temporarily licensed or unlicensed person being supervised.

(5) "NBCE" means the National Board of Chiropractic Examiners.

(6) "PACE" means Providers of Approved Continuing Education sponsored by the Federation of Chiropractic Licensing Boards.

([3]7) "Preceptor" means a licensed chiropractic physician who is a supervisor of interns and externs in the professional practice of chiropractic.

([4]8) "Preceptorship" means a supervised training program established by a written contract between a chiropractic college or university whose program or institution is accredited by the Council on Chiropractic Education, Inc., and a licensee for the purpose of providing chiropractic training to a student enrolled in the chiropractic college or university while under the supervision of a licensee.

([5]9) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 73, is further defined in accordance with Subsection 58-1-203(5), in Section R156-73-501.

#### **R156-73-103. Authority - Purpose.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 73.

**R156-73-303b. Continuing Education - Standards.**

(1) The standards for continuing education are as follows:

(a) the content must be relevant to chiropractic practice and consistent with the laws and rules of this state;

(b) the course must be under the sponsorship of or approved by:

(i) a chiropractic college or university whose doctor of chiropractic program is accredited by the Council on Chiropractic Education, Inc.;

(ii) a professional association or nonprofit organization representing a licensed profession whose program objectives relate to the practice of chiropractic; ~~or~~

(iii) the licensing agency of another state; or

(iv) PACE;

(c) learning objectives must be reasonably and clearly stated;

(d) teaching methods must be clearly stated and appropriate;

(e) faculty must be qualified, both in experience and in teaching expertise;

(f) documentation of attendance must be provided; ~~and~~

(g) there shall be no more than four clock hours related to chiropractic practice marketing or practice building;

(h) no more than 10 hours of continuing education, in each two year period of licensure, may be by distance learning.

(2) A licensee shall be responsible for maintaining competent records of completed continuing education for a period of two years after close of the two year period to which the records pertain.

(3) The board may, after review, waive the continuing education requirements for a licensee presenting sufficient evidence of hardship or illness or other reason making it impossible or highly impractical for the licensee to attend or have attended a sufficient number of continuing education classes.

(4) As part of the 40 continuing education hours required every two years, a chiropractic physician, who provides acupuncture services as a part of their practice, shall complete 10 hours of acupuncture related continuing education.

**R156-73-601. Scope of Practice.**

The requirements to demonstrate competency and training to perform clinical acupuncture include:

(1) Licensees who provided acupuncture services as a part of their practice prior to January 1, 2002 are not required to meet the requirements of Subsections (2) or (3), but are required to complete[completing] a recognized clinical acupuncture course sponsored by an institution or organization approved to sponsor continuing education, as defined in Section R156-73-303b, consisting of at least 100 classroom hours of instruction and passing a certifying examination in order to continue to provide clinical acupuncture as a part of their practice after January 1, 2002.

(2) [Beginning January 1, 2002, for licensees who have not previously met the requirements listed in Subsection (1), the requirements to demonstrate competency and training to perform clinical acupuncture shall be]Licensees who begin providing clinical acupuncture as a part of their practice on or after January 1, 2002 and prior to January 1, 2005 shall:

(a) [completing]complete a recognized clinical acupuncture course sponsored by an institution or organization approved to sponsor continuing education, as defined in Section R156-73-303b, consisting of at least 200 classroom hours of instruction and passing a certifying examination; or

(b) [completing]complete a recognized clinical acupuncture course sponsored by an institution or organization approved to sponsor continuing education, as defined in Section R156-73-303b, consisting of at least 100 classroom hours of instruction, passing a certifying examination, and completing 100 hours of clinical experience under the indirect supervision of a licensed health care provider who has met the requirements in Subsection (1) or (2)(a), and has practiced clinical acupuncture for at least two years.

(3) Licensees who begin providing clinical acupuncture as a part of their practice on or after January 1, 2005 shall:

(a) meet the requirements to take and receive a passing score on the NBCE Acupuncture Examination; or

(b) meet the requirements to take and receive a passing score on the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) Examination.

**KEY: chiropractors, licensing, chiropractic physician**

**[~~September 5, 2002~~]2004**

**58-73-101**

**Notice of Continuation July 5, 2001**

**58-1-106(1)(a)**

**58-1-202(1)(a)**